

Consultation Analysis: Supporter Involvement in Scottish Football Clubs



HEALTH AND SOCIAL CARE

Consultation Analysis: Supporter Involvement in Scottish Football Clubs

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Contents

1. Executive Summary	1
Options for legislation: supporters' right to influence their football club	2
Options for legislation: supporters' right to govern their football club	2
Options for legislation: supporters' right to bid for their football club	3
Options for legislation: supporters' right to buy their football club	4
Views on raising the necessary funds to execute the right to buy and the time allowed for this	4
Views on defining assets in the context of making a law to give supporters rights in the decision-making or ownership of their club	5
Views on defining supporters and supporter groups in the context of making a law to give supporters rights in the decision-making or ownership of their club....	5
Views on rights of appeal	6
Summary of additional comments	6
2. Introduction	7
Consultation responses	8
Analysis of responses	8
3. Options for Legislation: Supporters' Right to Influence their Football Club	10
Question 1: What are your views on making a law to give supporters the right to influence their club?	10
Reasons given in support of making a law to give supporters the right to influence their club	11
General views on the benefits of supporters influencing their club	11
Qualifying views	12
Reasons given in opposition to making a law to give supporters the right to influence their club	13
Views on the proposed Supporter Involvement Award	14
Views on Supporter Liaison Officers	14
Views on the proposal to make the publication of beneficiaries of the club a requirement for participation in the SPFL	15
Summary of key points	15
4. Options for Legislation: Supporters' Right to Govern their Football Club.	17
Question 2: What are your views on making a law to give supporters the right to govern their club?	17
Reasons given in support of making a law to give supporters the right to govern their club	17
General views on the benefits of supporters governing their club	18

Reasons given in opposition to making a law to give supporters the right to govern their club	19
Specific views on supporter representation on Boards	20
Views on alternative mechanisms for supporter governance	21
Views on achieving representativeness amongst supporters involved in governance	22
Views on training and guidance for supporter representatives.....	23
Summary of key points	23
5. Options for Legislation: Supporters' Right to Bid for their Football Club...	25
Question 3: What are your views on making a law to give supporters the right to bid for their club?	25
Reasons in favour of giving supporters the opportunity to bid for their club....	25
Qualifying views	26
Reasons given in opposition to making a law to give supporters the right to bid for their club	27
General views on the perceived drawbacks of supporters bidding for their club	27
Views on alternative approaches.....	28
Summary of key points	29
6. Options for Legislation: Supporters' Right to Buy their Football Club	30
Question 4: What are your views on making a law to give supporters the right to buy their club?	30
Reasons in favour of giving supporters the opportunity to buy their club	30
Qualifying comments	31
Reasons given in opposition to making a law to give supporters the right to buy their club	32
General views on the perceived drawbacks of supporters buying their club...	32
Summary of key points	34
7. Views on Raising the Necessary Funds to Execute the Right to Buy and the Time Allowed for this	35
Question 5: What are your views on raising the necessary funds, including the amount of time allowed for supporters to do so, to give supporters a right to buy their football club?.....	35
Views on allowing time for supporters to raise funds	35
Views on Scottish Ministers involvement in raising funds	37
Views on the proposed Business, Community and Football Enterprise Unit ..	37
Views on widening the criteria and role of social investment institutions	38
Summary of key points	39

8. Views on Defining Assets, in the Context of Making a Law to give Supporters Rights in the Decision-Making or Ownership of their Football Club

Question 6: What are your views on defining assets, in the context of making a law to give supporters rights in the decision-making or ownership of their football club?	40
Views on ensuring assets are defined	40
Perceptions of what constitutes “assets”	42
Conceptual frameworks on clubs and assets	43
Views on holding companies	43
Summary of key points	44

9. Views on Defining Supporters and Supporter Groups, in the Context of Making a Law to give Supporters Rights in the Decision-Making or Ownership of their Football Club

Question 7: What are your views on how to define what is a football supporter and defining supporter groups, in the context of making a law to give supporters rights in the decision-making or ownership of their football club?	45
Views on defining a football supporter	45
Views on who should not necessarily be given priority as a supporter	47
Views on defining supporter groups	48
Summary of key points	48

10. Views on Rights of Appeal

Question 8: What are your views on rights of appeal, in the context of making a law to give supporters rights in the decision-making or ownership of their football club?	50
Views in favour of establishing rights of appeal.....	50
Views on who should be on the appeal board.....	51
Views opposing the establishment of rights of appeal.....	52
Summary of key points	53

11. Any other comments?

Summary of key points	55
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Annex: List of Respondents

56

1. Executive Summary

The Scottish Government supports fans having a greater role in decision-making and running of football clubs and the Community Empowerment (Scotland) Act 2015 contained a commitment to consult on a range of options to enhance this.

In 2014 the Scottish Government established a short-term Working Group for Supporter Involvement in Football Clubs (the Working Group) tasked with providing recommendations on ways to increase and improve supporter involvement in the governance, financing and operation of professional football clubs in Scotland. The group, chaired by Stephen Morrow of Stirling University, published its report in January 2015.¹

On 26 September 2015 the Scottish Government published a consultation paper, "Supporter Involvement in Scottish Football Clubs"² which presented recommendations from the Working Group on improved supporter involvement, strengthening the relationship between clubs and the communities they represent. Responses to the consultation were invited by 15 January 2016.

The Scottish Government received 982 responses to the consultation, 957 from individuals and 25 from organisations. The Green Party, under its Fans First campaign, prompted responses in support of legislating for supporters' right to buy their football clubs. This appears to have boosted the response level to that specific question compared to other options, although identification of these responses was not possible in a robust way. The organisations who responded to the consultation as a whole included football clubs and their representative bodies; schools; supporter groups; local government; and others.

The consultation posed nine questions, all open in nature, inviting views on four broad options for developing legislation (through regulation): a right for supporters to influence their football club; a right for supporters to govern their football club; a right for supporters to bid for their club in the event of a sale; and the right of supporters to buy their football club. A summary of these views follows. The views are those of the respondents to this consultation and may not necessarily represent the views of a wider population.

¹ The Working Group report can be found at: <http://www.gov.scot/Topics/ArtsCultureSport/Sport/football/WorkingGroupSupporterInvolvement/>
²The consultation document can be found at: <http://www.gov.scot/Publications/2015/09/8222>

Options for legislation: supporters' right to influence their football club

The view of a clear majority of respondents, both individual and across the range of organisations, was that a law should be provided to give supporters the right to influence their club.

The main reason given in favour of providing such a law was that this will make clubs more open and accountable. A recurring view was that supporters are the lifeblood of clubs and they deserve to be involved in influencing their football club.

A frequently raised concern, however, was how to ensure the supporters who could be involved are representative of the wider fan-base.

The most common argument emerging from the minority of respondents opposing such a law was that some clubs are already very well run and involve supporters in decision-making, and new legislation imposed over and above this would be superfluous, or could detract from systems already working well.

Another common view was that, as most football clubs are businesses and subject to existing company law and associated duties to shareholders, additional legislation giving supporters the right to influence their club may create tension with the current legislative framework.

Very few respondents provided views on the proposed Supporter Involvement Award or on existing Supporter Liaison Officers. Whilst expressing general support, some suggested that these initiatives need to be strengthened and better publicised.

Views of the few who commented on the issue were broadly in support of the proposal that a club must declare to the Scottish Premier Football League (SPFL) and Scottish Football Association (Scottish FA) and publish the identity of the ultimate beneficial owner of the club. Several respondents welcomed the transparency which they felt this would bring.

Options for legislation: supporters' right to govern their football club

Whilst there was a mix of opinion over whether or not supporters should be provided with the opportunity to govern their club, the majority of those who expressed a clear view did not agree that this should be enshrined in law.

The most common argument against legislating was that the new law could create tension with existing company law governing most clubs. Other prevailing views were that shareholders can already voice their opinions in various ways and a "one size fits all" approach is inappropriate given the range of governance arrangements across clubs.

Despite the majority view against legislation, the notion of involving supporters in governing football clubs, as a general principle, received considerable support. In particular, respondents envisaged supporters bringing passion and loyalty to governance; they were seen as having the best interests of the club at heart; and according to respondents, it made business sense to make best use of supporter resources with supporters considered to be forward-looking and innovative.

Questions were raised, however, over how many supporters would have the necessary time, inclination and skillset to fulfil a role in governance.

Support for Dual Board Structures or Supporter Advisory Board Models was expressed with these seen as providing a balance which enabled respective parties to contribute effectively to the governance of football clubs whilst safeguarding confidential information and important financial decisions.

A recurring theme was how to ensure supporters involved in governance are representative of the wider supporter base, with views put forward on ways to select supporters democratically and emphasis placed on including diverse groups.

A shared view was that supporters and Directors of Boards should be treated in the same manner in terms of training provision and upskilling for their respective governance roles.

Options for legislation: supporters' right to bid for their football club

Responses indicated widespread support for the principle of right to bid, but support was lower for enshrining this in law, particularly amongst organisations.

Reasons in favour of supporters having the right to bid for their club revolved largely around their deserving this on account of their long-term commitment to their club and having the club's best interests at heart.

In order to bid for their club effectively, respondents recommended that supporters should be required to have finances in place for the purchase and longer-term sustainability of the club; should have access to professional help with their bid; and will require to have the necessary business expertise to participate in the bidding process.

The dominant argument against making a law to give supporters the right to bid for their club was that existing legislation already provides for this. Other common views were that supporters are not likely to be able to secure sufficient funding to bid for and financially sustain a club; and that this may not always be the best option for clubs which are already financially sound and operating well.

Very few respondents addressed the possibility of using the Localism Act 2011 to safeguard their football club, with those who did generally in favour.

Options for legislation: supporters' right to buy their football club

The question of whether a law should be taken forward to give supporters the right to buy their club attracted the most responses out of all the consultation topics, reflecting the encouragement of the Green Party via its Fans First campaign to respond in support of legislation.

A clear majority of individual respondents favoured making a law to give supporters the right to buy their club; views of organisations were broadly balanced between those in favour and those against.

The most common argument in favour of giving supporters the opportunity to buy their club was that this will safeguard football clubs from asset-stripping and those intent on short-term business gain. Another prevailing view was that supporters will do what is right for their club and will provide secure stewardship into the future.

The most common argument against making a law to give supporters the right to buy their club was that they already have the opportunity to do this under existing company law. Preferential treatment given to football club supporters over other potential buyers was seen as out of step with business protocol.

A common concern was that this could be open to abuse by unscrupulous people posing as supporters. Other prevalent concerns were over: potential friction between different groups of supporters; deterring the possibility of future investment; value of clubs dropping; and the longer-term viability of clubs purchased by supporters.

Views on raising the necessary funds to execute the right to buy and the time allowed for this

Most of those who addressed this issue were in favour of allowing time for supporters to raise the necessary funds to buy their football club so long as a clear time limit is set to prevent the process drawing out indefinitely.

A common view was that supporters should also be required to develop a well-structured plan for sustaining funds over the longer-term.

Whilst some respondents considered that the period permitted for raising funds should be decided on a case-by-case basis, there were those that argued for set timescales, mainly of up to one year.

A clear majority of those who addressed the topic disagreed with the involvement of the Scottish Government in providing funding or loans to supporter groups to allow them to bid for their football club.

Much support was expressed for a suitably resourced and accountable Business, Community and Football Enterprise Unit which was envisaged as: providing advice; providing training for supporters; mediating between owners and supporters;

providing a safeguard against rogue bidders with ulterior motives; and enabling/overseeing efficient sourcing of funds.

The proposal to widen the criteria and role of social investment institutions to allow them to act as vehicles which could support football supporter collectives was generally favoured by the few respondents who considered it.

Views on defining assets in the context of making a law to give supporters rights in the decision-making or ownership of their club

There was general agreement over the importance of defining assets clearly in the context of supporters becoming involved in influencing, governing, bidding for and buying their clubs. However, many respondents also considered such clarity difficult to establish, due largely to the extensive variety of corporate structures and asset ownership models across football clubs.

Many of the individual respondents shared a view that assets should already be defined as routine in standard business accounting reports and that these will be freely available. Others recommended seeking expert advice on how to define assets.

Where respondents indicated what they perceived football club assets to be, those most commonly identified were: stadia and training grounds; players; branding; merchandise/sponsorship packages; and staff.

A recurring view was that, even if the scope of assets can be defined, their value may not be readily identified due to fluctuations according to circumstance.

Views were divided between those who perceived clubs and their assets to be inseparable and those who perceived clubs to be separate entities, distinct from tangible assets and companies.

A few respondents called for greater clarity over the relationship between clubs and associated holding companies.

Views on defining supporters and supporter groups in the context of making a law to give supporters rights in the decision-making or ownership of their club

The challenges of defining football supporters and supporter groups were widely recognised. Amongst those respondents who attempted definitions of a football supporter, the most frequently mentioned descriptions were: season ticket holder; someone who contributes generally to the club's finances; someone who attends matches when possible; and a person who self-defines as a football supporter and has an emotional attachment to a club.

It was generally acknowledged that some supporters cannot afford to attend matches or are not able to attend in person due, for example, to distance from their

club or disability, and it was felt that they should not be excluded from decision-making at their club on account of this.

There were mixed and sometimes contrasting views on which supporters should have priority over others in the context of rights in the decision-making or ownership of football clubs.

Amongst the few respondents who attempted a definition of supporter groups, the most common views were: properly constituted group registered with the Scottish FA or SPFL; and a collection of like-minded supporters who contribute generally to their club.

Views on rights of appeal

Most respondents were in favour of establishing rights of appeal in the context of making a law to give supporters rights in the decision-making or ownership of their football club.

The main reasons in support were that rights of appeal are routine aspects of justice, part of the balance and checking procedures and good practice where legislation such as this is enacted. Other prominent views were that rights of appeal would be democratic and fair to different parties and would provide a formal route to dispute resolution.

A recurring view was that any appeals process should have clear parameters to reduce the risk of spurious appeals and delays in finalising decisions.

Common recommendations were for the appeals Board to be independent and to work in a transparent manner.

Amongst the small minority of opponents, the prevailing view was that existing mechanisms and legislation should suffice, with no additional need for appeal procedures. Concerns were raised that new appeals processes might be overly bureaucratic and expensive.

Summary of additional comments

Many respondents took the opportunity to make additional, broader comments on the proposals in the consultation and on wider football issues.

One key topic area raised by respondents was that they should be given more respect from the governing bodies of football generally and when attending football matches. Comments were suggestive of some challenges in the relationship between governing bodies of football and football supporters with additional concern expressed over ticket prices and police management of supporters at matches.

A common recommendation was that football clubs should continue to work at creating meaningful channels of communication with their supporters.

2. Introduction

The Scottish Government supports fans having a greater role in decision-making and running of football clubs and the Community Empowerment (Scotland) Act 2015 contained a commitment to consult on a range of options to enhance this.

In 2014 the Scottish Government established a short-term Working Group for Supporter Involvement in Football Clubs (the Working Group), chaired by Stephen Morrow, Senior Lecturer in Sport Finance at the University of Stirling, and with representatives from the Scottish Football Association (Scottish FA), Scottish Professional Football League (SPFL), Supporters Direct Scotland (SDS), **sportscotland** and the Scottish Government. The Working Group was tasked with identifying, considering and providing recommendations on potential ways to increase and improve supporter involvement in the governance, financing and operation of professional football clubs in Scotland in order to ensure fans can be actively involved in decision-making and supporting the long-term sustainability of the club. The group published its findings in January 2015³.

On 26 September 2015 the Scottish Government published a consultation paper, "Supporter Involvement in Scottish Football Clubs"⁴ which presented recommendations from the Working Group on improving supporter involvement and strengthening the relationship between clubs and the communities they represent.

The Working Group operated on a working assumption that a mixed ownership model is likely to be most appropriate for Scottish football with broader involvement in football clubs to be encouraged, irrespective of the particular ownership structure adopted. In its consultation paper the Scottish Government sought views on four broad options for developing legislation (through regulation): a right for supporters to influence their football club; a right for supporters to govern their football club; a right for supporters to bid for their club in the event of a sale; and the right of supporters to buy their football club.

The consultation was publicised by the Scottish Government, other organisations including SDS and the Scottish Football Supporters' Association (SFSA) and local and national media. The Society of Local Authority Chief Executives (SOLACE) cascaded the information to all Scottish local authorities. Alternative formats or translations of the consultation document were available on request.

Responses to the consultation were invited by 15 January 2016, with any further responses received until late January also included.

³ The working group report can be found at: <http://www.gov.scot/Topics/ArtsCultureSport/Sport/football/WorkingGroupSupporterInvolvement/>

⁴ The consultation document can be found at: <http://www.gov.scot/Publications/2015/09/8222>

Consultation responses

The Scottish Government received 982 written responses to the consultation, 957 from individuals and 25 from organisations. The Green Party prompted responses via its Fans First campaign in support of legislating for supporters' right to buy their football clubs. This appears to have boosted the response level to that specific question compared to other options, although identification of these responses was not possible in a robust way.

The organisations who responded included football clubs and their representative bodies; schools; supporter groups; local government; and others, see Table 2.1. A full list of responding organisations is in the Annex. The respondent category applied to each response was agreed with the Scottish Government policy team.

Table 2.1: Distribution of responses by category of respondent

Category	No. of respondents	% of all respondents
Individual respondents	957	97
Football Clubs and Representative Bodies	7	
Schools	6	
Supporter Groups	4	
Local Government	4	
Others	4	
Total organisations	25	3
Grand total of individuals and organisations	982	100

The vast majority of responses were submitted via the online system, Citizen Space, established for consultation responses. Where responses were submitted by email or hard copy, Scottish Government officials entered them manually onto the Citizen Space system to create one complete database of responses and to aid comparison of views and analysis.

Analysis of responses

The analysis of responses is presented in the following nine chapters which follow the order of the topics raised in the consultation paper. The analysis is based on the views of only those who responded to the consultation. It is important to note, therefore, that these cannot be taken to be necessarily representative of the wider population.

The consultation contained nine questions, all allowing an open response format. No closed (Yes/No) questions were posed.

Table 2.2 provides an indication of the response level for each question. The question attracting most responses was, “What are your views on making a law to give supporters the right to buy their club?” Overall, 86% of respondents provided a view on this question, with many of them responding on this topic and no other. A substantial volume of these responses come from the prompting by the Green Party via the Fans First campaign.

Table 2.2: Level of response per question topic

Question topic	No. of respondents	% of all respondents
Supporters’ rights to influence club	600	61
Supporters’ rights to govern club	554	56
Supporters’ rights to bid for club	571	58
Supporters’ rights to buy club	848	86
Raising funds to buy club	520	53
Defining assets in the context of decision-making or ownership of club	466	47
Defining football supporter and supporter groups in the context of decision-making or ownership of club	530	54
Rights of appeal in the context of decision-making or ownership of club	394	40
Any other comments	366	37

Throughout the report, quotes taken directly from individual and organisation responses have been used to illustrate specific points. These were selected on the basis that they enhance the analysis by emphasising specific points succinctly. Quotes from a range of sectors were chosen where the respondents have given permission for their respective response to be made public. Where respondents have requested confidentiality, the content of their response has been examined and taken into account in the findings, but is not reported explicitly in the text of the report so as to keep the identity of the respondent confidential.

3. Options for Legislation: Supporters' Right to Influence their Football Club

Background

The Scottish Government is seeking views on four broad options for developing legislation (through regulation) to improve supporter involvement in their clubs. One option is to enshrine in legislation the rights of supporters to influence their football club.

Supporter involvement in clubs is seen as a pre-requisite to supporter influence in order for supporters to know what is going on at a club and to input in an informed manner. Supporter involvement ranges from supporter engagement in a clubs' community and social activities and supporter communications, to their involvement in governance and management of their clubs.

The Working Group for Supporter Involvement in Football Clubs recommended that initiatives, facilitated by the football authorities, but led by independent experts, be provided for football club directors, owners and staff, these focusing on enhancing clubs' understanding of potential benefits arising from enhanced supporter involvement.

The Group also proposed the identification, encouragement and rewarding of best practice through a Supporter Involvement Award; the wider publication of information about Supporter Liaison Officers (SLOs); the publication on a club's website of Board appointments and the underlying rationale for these; and making the publication of the ultimate owner of a football club a condition of participation in the SPFL.

Question 1: What are your views on making a law to give supporters the right to influence their club?

600 respondents addressed this question, including all of the organisations and 575 individuals.

It was evident that respondents interpreted "influence" in many different ways, with their view on whether there should be a law to support this grounded in these different interpretations. Some respondents considered supporters to have considerable influence already, choosing whether or not to purchase a ticket for a match was considered to be one way in which influence can be exerted. At the other end of the scale, "influence" was perceived by some to be closer in concept to "governance", with their views relating to a more formal role for supporters within their club.

Against this background, the vast majority of respondents, both organisations and individuals, were in favour of supporters having opportunities to influence their club, with the majority of these considering that the right of supporters to influence their clubs should be enshrined in law. However, a significant minority of respondents, although agreeing that supporters should have opportunities to influence, did not agree that this should be formalised in legislation.

Reasons given in support of making a law to give supporters the right to influence their club

Very few substantive comments were made specifically in favour of legislating for supporters' rights to influence their club. The most common rationale was that legislation to underpin supporters' rights to influence their club will help to make clubs more **open and accountable**, thus reducing the risk of mis-management.

Although some respondents acknowledged that supporters can already influence their clubs in various ways, they felt that legislative backing would **provide "teeth" to strengthen the informal arrangements**.

A few commented that enshrining in law supporters' rights to influence their club could **change management/owner current perceptions** of supporters being "captive audiences", and could possibly make supporters feel more responsible for their club, its portrayal in the media, and the behaviour of the club's supporters overall.

A few respondents qualified their support for legislation, stating, for example, that supporters should have the right to influence so long as they are realistic about the scope of influence within the overall business model of the club. Others emphasised that the law should be meaningful, in that supporters should not be kept in the dark about aspects of the club's business.

"Obviously in order to do this the ownership structure of the club must be open and transparent...." (The Scottish Co-Operative Party).

General views on the benefits of supporters influencing their club

Many respondents, whether or not they were in favour of making a law to give supporters the right to influence their club, elaborated on what they perceived to be the benefits of supporter influence.

The most commonly held view was that this will put supporters at the centre of the club, which is right and proper, to reflect their contribution as the **lifeblood of the club**.

"...they are the club's bread and butter and without fans the clubs would not exist" (Individual).

“Football clubs and managers talk about the twelfth man and how important supporters are to the performance of the team yet their thoughts are generally ignored” (Individual).

Other common views were that giving supporters influence within their club will **promote openness and transparency** in club affairs and will help to **protect against the risk of poor decisions** which may not be in the club’s long-term interests.

Further views were that supporters’ influence would contribute to **embedding the club within the local community and promoting social capital**. This was envisaged as adding a social/emotional dimension to decision-making which would provide a more rounded approach to the running of the club. Some felt that involving supporters in this way would build greater loyalty to the club; provide consistency in governance; build trust; and ultimately contribute to a more successful business.

“It is important in any business that the customers are consulted and have a say in the running or structure of their club” (Cumnock Academy).

Qualifying views

Despite identifying potential benefits of supporters being given the opportunity to influence their club, many respondents qualified their view, with a common concern being how to ensure the people in these roles are representative of supporters. Many emphasised the need to ensure different types of supporter have a voice: older, younger, male, female, people with a disability and so on. Some urged that different supporter viewpoints should be represented, “not just the minority with a specific agenda” and not “just the noisy few” (Individual respondents).

“FFC ...recommends that any proposed legislation takes into account the total support base of a club and not just a particular organisation that happens at that time to be affiliated to a national supporters’ association” (Falkirk Football and Athletic Club Ltd).

Other concerns expressed were:

- The Board of Directors should not be undermined if they are acting in the interests of the club.
- The scope of influence should be well defined.
- Supporter ideas should be considered within the context of financial constraints of the club and what is best for longer term stability.
- Supporters should have access to the necessary information about commerce, in language they can understand, in order for influence to be meaningful.

Reasons given in opposition to making a law to give supporters the right to influence their club

Many arguments against making a law to give supporters the right to influence their club were documented by the significant minority of respondents who held this view. Three main arguments were raised repeatedly.

The most common was that **some clubs are already very well run** and already open to influence by supporters, and introducing the proposed legislation could detract from that.

“We believe that most well-run football clubs would see the connection between supporter involvement and a thriving business and, as such, a law may not be required” (East Ayrshire Council).

“...diluting the power of a successful businessman/woman who is running the club well and replacing their influence with supporters who are not experienced in running such an organisation could be costly” (Individual).

Another common argument was that **football clubs are businesses with existing legislation governing their operation and duties to their shareholders**. The proposed legislation was seen as out of step with this current business model and associated legislative framework. Many individual respondents held this view, for example:

“How can you pass a law to allow anyone, regardless of ability or notion, to have influence over a business or concern?”

“I shop in Tesco. Will the government propose a law to give me a right to influence Tesco’s board?”

The third common argument was that the proposed legislation would be **ineffective, would not go far enough and would amount to tokenism**.

“If this level of involvement is thought to be the limit of what is advisable, there is little point in legislation on the issue” (Individual).

Three further key rationales against making a law to give supporters the right to influence their club were expressed by a smaller number of respondents. Some respondents, including a football club and several individuals, considered that the **Scottish Government should not be involved** to this extent in football. Another shared view was that the law would be **overly bureaucratic, difficult to define, confusing and impractical**. Two football clubs, and several individuals considered that legislation would force one way of doing things, whereas “**one size does not fit all**” clubs.

A range of additional arguments against introducing a law were expressed:

- Not needed as supporters can already influence their club in various ways. For example, “Given Celtic’s record of supporter engagement, we do not consider that a new law giving supporters the right to influence their club is necessary or appropriate” (Celtic plc).
- Could lead to legal challenges.
- Already have Supporter Liaison Officers to do this.
- Private investors could be put off investing.
- Difficult to enforce and police.
- Difficult to reconcile views of different factions of supporters within this.
- Changes the relationship between supporter and club – best to leave this voluntary rather than force it by legislation.

Views on the proposed Supporter Involvement Award

The Working Group recognised the central role of supporters to the social and financial vibrancy of football clubs and proposed the introduction of a Supporter Involvement Award to reward best practice.

Very few individual respondents to the consultation mentioned this proposal, although two of the local government respondents were particularly supportive. Both envisaged the award as providing a “carrot and a stick” which could be used to ensure owners and directors of clubs embrace the principle of supporter involvement and influence in an open and transparent manner.

One individual respondent called for more detailed criteria against which to measure clubs’ achievements in terms of involving supporters.

One organisation, however, was particularly critical of the initiative.

“We do not see any merit in the proposed Supporter Involvement Award and are at a loss to understand what this could achieve” (Celtic Supporters’ Trust).

Views on Supporter Liaison Officers

Since 2012, all SPFL Premiership clubs have been required under the Union of European Football Association (UEFA) Club Licensing Regulations to appoint a Supporter Liaison Officer (SLO). Part of the remit of SLOs is to improve the relationship between various stakeholders, in particular, between supporters and club directors and/or owners.

Very few respondents provided views relating to SLOs, but a few suggested that the role be strengthened by more explicit Government backing, financial support, and greater awareness raising, perhaps by publishing details on club websites as recommended by the Working Group.

Concern was expressed that some clubs appeared to be paying only “lip service” to the requirement to appoint a SLO, perceiving the appointment simply as a box-ticking exercise, with the person not necessarily fulfilling the responsibilities envisaged by UEFA.

General comments were that current mechanisms for supporter involvement (e.g. supporter organisations; SLOs) should be strengthened and enforced, whether or not further legislation is introduced on supporter involvement.

Views on the proposal to make the publication of beneficiaries of the club a requirement for participation in the SPFL

The Working Group recommended that to participate in the SPFL, a club must declare to the SPFL and to the Scottish FA, and publish the identity of the ultimate beneficial owner of the club. Should that owner be a trust, it was proposed that the club must disclose the ultimate beneficiaries of the trust and the names of the trustees.

A small number of individual respondents and a few organisations provided comments relating to this proposal. Views were broadly in support of the proposal with several respondents welcoming the transparency this would bring, and some urging that the proposal go further to reveal all shareholders and owners of significant assets.

“The Working Group recommendations concerning transparency of the names and responsibilities of directors and owners – including the names of trustees in the event that a trust is a significant owner or part-owner.....are logical and desirable” (Scottish Urban Regeneration Forum).

“As well as the beneficial owner of the football club being declared and published, the beneficial owner of other significant assets associated with the football club should also be disclosed. "Significant assets" might include the stadium, training ground, retail operation etc. Similarly, the Trustees or beneficiaries of any registered charity having a significant association with the football club should also be disclosed and published. "Significant association" might include a reference in the Deed of Trust or other governing document to the football club” (Individual).

Summary of key points

Respondents interpreted “influence” in different ways with their perception determining their views on supporters’ right to influence their football club. Interpretation of influence was also recognised by respondents as a potential issue. Nonetheless, the view of a clear majority of respondents, both individual and organisations, was that a law should be made to give supporters the right to influence their club.

The most common reason given in favour of making such a law was that this will make clubs more open and accountable. A recurring view was that supporters are the lifeblood of clubs and they deserve to be able to influence their football club. A frequently raised concern, however, was how to ensure the supporters who could be involved are representative of the wider fan-base.

The most common argument emerging from the minority of respondents opposing making such a law was that some clubs are already very well run and involve supporters in decision-making, and new legislation imposed over and above this would be superfluous or could detract from systems already working well.

Another common view was that, as most football clubs are businesses and subject to existing legislation and duties to shareholders, additional legislation giving supporters rights to influence may create tension with these.

Very few respondents provided views on the proposed Supporter Involvement Award or on existing SLOs. Those that did gave general support but suggested the need to publicise and strengthen these initiatives further.

Views of the few who commented were broadly in support of the proposal that a club must declare to the SPFL and Scottish FA and publish the identity of the ultimate beneficial owner of the club. Several respondents welcomed the transparency which they felt this would bring to the club.

4. Options for Legislation: Supporters' Right to Govern their Football Club

Background

Governance arrangements in Scottish football have been criticised for failure of clubs to involve supporters and/or supporter groups in their governance structures. Much debate has surrounded how best to involve supporters in governance of clubs with suggestions including formal representation at Board level; dual Board structures where a supporters' Board runs parallel to the club's Board, performing different but interrelated functions; a Fan's Parliament Model; and other tailored models such as a Supporter Involvement Forum.

The Scottish Government considers that, regardless of the model adopted, basic principles are that supporters involved in governance should be representative of the wider group and accountable to them; the process of appointment or involvement must be transparent; and the individuals involved should have the right skillset.

The Working Group recommended that clubs give consideration to the most appropriate governance model for them which ensures supporter involvement; and that training and guidance should be made available to supporter representatives involved.

Question 2: What are your views on making a law to give supporters the right to govern their club?

554 respondents addressed this question, including all but one of the organisations and 530 individuals. A further 33 individuals simply referred to their response to the previous question.

Overall, views were mixed regarding supporters being given opportunities to govern their club. However, the balance of opinion was against making the opportunities enshrined in law, with no difference between opinions of organisations versus individuals.

Reasons given in support of making a law to give supporters the right to govern their club

Very few substantive comments were made specifically in favour of legislating for supporters' rights to govern their club. Two main views were that **legislative backing would give teeth** to such rights, making clubs focus more on how to enable this provision; and that making a law would **ensure longer term viability** of this approach and clubs' financial security.

A few respondents qualified their support for legislation, stating, for example, that supporters should have the right to govern enshrined in law so long as those involved undergo the necessary training for this role, are competent, and some form of monitoring takes place to ensure supporters in governance roles represent the range of types of supporter.

One suggestion was for an enforcement regime to be put in place, with penalties imposed on clubs which do not conform with the legislation.

General views on the benefits of supporters governing their club

Many respondents, whether or not they were in favour of making a law to give supporters the right to govern their club, elaborated on what they perceived to be the benefits of supporter governance.

Three key benefits emerged. Firstly, **supporters were perceived to be the lifeblood of their club**, bringing loyalty and passion in addition to finance to the club. Providing them with a governance role was viewed as giving them a just and deserved outlet for their voices to be heard.

Secondly, it was felt that supporters will always have the **best interests of the club at heart** and will, therefore, make governance decisions with no other agenda other than for the long-term good of the club and its wider community.

Finally, some considered that supporters may have a **wealth of untapped skills and organisational potential** which would be useful for clubs to capitalise upon. Providing routes into governance roles for supporters within football clubs was viewed as sound business sense, making best use of resources, with supporters considered to be forward-looking and innovative.

“East Ayrshire Council recognises people living in our communities as having a wide range of skills and talents that are often underestimated by ‘professionals’” (East Ayrshire Council).

“Supporters are better informed, equipped and have the desire for their clubs to progress in modern times” (Individual).

Again, some qualifications emerged with the view expressed that controls and parameters should be implemented to ensure the scope for supporter governance is well defined.

“...fans to have realistic expectations for what their club and the board can achieve together” (Mauchline United).

Others called for careful selection of supporter representatives to be involved in governance with their skillsets examined for suitability and appropriate training provided.

Reasons given in opposition to making a law to give supporters the right to govern their club

Many arguments were submitted in opposition to legislating to give supporters the right to govern their club.

The most common opposing argument was that this proposal is not **feasible in the business-led world** of football clubs, particularly when they are constituted as public limited companies, with priority of allegiance to shareholders. Respondents were unclear how legislation on supporter governance would fit with existing company law frameworks, with tension between them perceived to be inevitable.

“With a few exceptions, football clubs are commercial organisations and have to be run as such. Supporters by definition come from all walks of life and their desire to see their club succeed may or may not run in parallel with their commercial acumen and/or sense of realism” (Individual).

“It would be inappropriate for any supporters’ right to govern to be imposed on clubs which are limited companies because directors of these clubs owe their duties to the clubs” (Celtic plc).

Another prominent argument was that **shareholders can voice their opinions at the annual general meeting**, or in some cases, they may already be on governing Boards and, therefore, legislation is not required.

A repeated view was that “**one size does not fit all**” and, whilst it may be helpful to have supporters involved in governance in some clubs, this may not be beneficial in all. Size of club and constitution of the club were amongst the variables mentioned.

“With football clubs, particularly professional ones that operate with large budgets, direct governance by supporters who lack experience, expertise, time or energy may prove damaging rather than beneficial to the club in the longer term. This concern may not apply to smaller clubs....” (Scottish Urban Regeneration Forum).

“A place on the Board for fan representatives in a plc is a different thing to a privately owned football club” (Individual).

Other key arguments against making a law to give supporters the right to govern their club were that this appears to be “**heavy handed**”, too extreme, and disproportionate and that it would be **unworkable and unenforceable**. Some felt that certain clubs may adopt a cavalier approach to such a law, finding ways to comply in a token manner, but not in the spirit of true empowerment and engagement with supporters. Concerns were raised that such a law would **put off potential investors** who would be cautious about the supporters’ role in governing their investment.

“No well-advised person would ever acquire, or purchase a controlling stake in a football club if he had to cede to supporters the right to govern” (Dunfermline Athletic Football Club Limited).

Further arguments included:

- Supporter involvement in governance should not be forced, but should be agreed on amicably within clubs, without recourse to law.
- The Scottish Government should not be involved in this issue.
- Premature to go down this route without first looking at experience elsewhere and learning from this.

A few respondents provided more general views opposing the concept of supporter governance of clubs. Two main arguments dominated.

Firstly, a shared view was that being a passionate supporter does not necessarily translate into being a skilled governor of a club, and in reality, relatively **few supporters may have the skillset, time and inclination** to be effective contributors to their respective club’s governance.

Secondly, a repeated comment was that supporters may not be objective in decision-making at Board level, letting their **hearts rule their heads** due to the passion they feel for their club.

“The problem with this comes from supporters having, in general, bigger emotional ties to the club and will often have their opinions driven by the heart. Often this means that their view is to have things done regardless of cost” (Individual).

Additional views included that the proposal can only ever amount to window-dressing as the Board will continue to make important decisions over the heads of supporters; supporters as a group will have diverging views with this having potential to delay decisions and cause confusion; and there could be issues around confidentiality of information discussed at Board level.

Specific views on supporter representation on Boards

Many respondents were in favour of representatives of supporters having a place on football club Boards. Some individuals provided recommendations as to the appropriate level of representation with these ranging from “one or two” supporters, to up to 50% of Board members being supporters.

Whilst some considered a set proportion (such as 20%) should be laid down in SPFL/Scottish FA guidelines, others supported some form of sliding scale of representation, based on level of shareholding by the supporters’ organisation involved.

West Lothian Council suggested that recognised fan groups could buy, or be given, a share allocation along with rights for direct representation on the main Boards. Whilst not a “right to govern” per se, this was viewed as a “right to participate in governance”.

A repeated theme was for supporter representation on Boards to encompass diversity principles and more effectively represent communities, with clear goals to involve, for example, women, people with disabilities and various minority groups.

Views on alternative mechanisms for supporter governance

A small number of respondents provided their view on the **Dual Board Structure or Supporter Advisory Board Model** proposed in the consultation document as possible alternatives to formal representation at Board level.

Support for such models of governance emerged from across several respondent types including individual respondents, local government, a supporter group and a football club. These were seen as providing balance and enabling respective parties to contribute effectively whilst safeguarding confidential information and important financial decisions. The separation of strategy development from supporter involvement in governance was identified as beneficial by one local government respondent.

Dunfermline Athletic Football Club Limited expressed a preference for the dual Board structure involving an Executive Board and a Supervisory Board, with the former accountable to the latter, which comprises people “who understand the concepts of corporate governance, social responsibility and commercial confidentiality”. The proposed Supervisory Board was envisaged as being non-executive in nature with its primary purposes being to ensure the Executive Board conducts its affairs in line with the club’s agreed, published strategy; and that each member of the Executive Board is fulfilling his or her role properly. The Supervisory Board would have responsibility for liaising most closely with the club’s stakeholders including its supporters, with supporters/supporter groups having the right to make appointments to the Supervisory Board.

A very small number of individual respondents argued against a Dual Board model, largely on the grounds that the supporters’ Board would be ineffective, not taken seriously and would comprise an added layer of bureaucracy, requiring effort but holding little power.

Very few respondents provided views on the proposed **Fan’s Parliament Model** outlined in the consultation document. The balance of opinion was in favour of such a model, although one respondent expressed concern that this could generate bickering amongst fans.

A few respondents made recommendations for what they saw as potential alternative models for supporters to be involved in governance, with the key ones being:

- Supporters' Involvement Forum, or Supporter Panel, perhaps with members elected by peers.
- A system of supporter voting, for example, by inviting supporters to buy shares in a club, or a season ticket, with this enabling them to vote on key issues.
- Informal engagement activities such as fans' forum public events and online question and answer sessions with club officials.

A small number of respondents commented that, rather than make efforts to establish supporter governance mechanisms at club level, the most appropriate context for their input is at national governance level within the Scottish FA and SPFL where they can impact on national strategy and future development.

Exemplary models of good practice exist, according to some respondents. Germany was identified repeatedly in this regard, but also individual clubs such as Barcelona and, closer to home, Wimbledon.

"I would fully support the implementation of the German model of football club governance which also includes a minimum portion of the club that has to be fan controlled, a club salary cap and a limit on foreign players which we can see has significantly boosted the German national team. Anything that would be good for football in Scotland should be assessed and copied and the German model seems to be the prime example currently in Europe" (Individual).

Views on achieving representativeness amongst supporters involved in governance

A recurring theme was how to ensure that supporters involved in governance are representative of the wider supporter base.

A shared view was that the selection of supporter representatives should be transparent and structured according to set rules. Some respondents proposed formal elections for selecting suitable representatives in a democratic manner. However, different views emerged on who should be permitted to vote in these, with proposals including: season ticket holders; supporters (and definitely not club officials); and members of supporter groups.

It was emphasised that supporters chosen for such roles should be broadly representative of diverse groups with gender balance a key target. Although, it was highlighted that it could prove very difficult to achieve supporter representation to everyone's satisfaction, particularly as different supporter groups can hold contrasting views and different representatives may have specific agendas.

One respondent called for attention to be given to financial, social and physical barriers which could preclude some supporters from being able to take on governance roles.

Views on training and guidance for supporter representatives

Very few respondents provided any substantive views on the Working Group recommendation that training and guidance be made available to supporter representatives.

One shared view amongst individuals and a few local government respondents was that supporters and Directors of Boards should be treated no differently with regards to training, and upskilling for their role should be a requirement for all involved at Board level. Whilst a few envisaged training as mandatory, others acknowledged that those taking Board positions will bring different skills and may have varying requirements regarding improving their skills.

A few individuals recommended that training and guidance be targeted to ensure that suitable individuals are not excluded from representation on Boards on account of their lack of experience or disability, and a key purpose of training should be to equip people from all walks of life with the skills and confidence to take on a Board role.

Questions were raised over who would conduct the training, whether a central body would deliver this or whether this would be delivered through a customised, local approach, and who will pay for training.

Summary of key points

Whilst opinion was mixed over whether or not supporters should be provided with opportunity to govern their club, the majority of those who expressed a clear view on this question did not agree that this should be enshrined in law.

The main argument against legislating was that the new law could create tension with existing company law governing most clubs. Other prevailing views were that shareholders can already voice their opinions in various ways and a “one size fits all” approach is inappropriate given the range of governance arrangements of clubs.

Despite the majority view against legislation, the general principle of involving supporters in governing football clubs received considerable support. In particular, respondents envisaged supporters bringing passion and loyalty to their governing roles; they would have the best interests of the club at heart; and it made business sense to make best use of resources with supporters considered to be forward-looking and innovative.

Concerns were raised, however, over whether many supporters would have the necessary time, inclination and skillset to fulfil a role in governance.

Support for Dual Board Structures or Supporter Advisory Board Models was expressed as providing a balance which enabled respective parties to contribute effectively to the governance of football clubs whilst safeguarding confidential information and important financial decisions.

A recurring theme was how to ensure supporters involved in governance are representative of the wider supporter base, with views put forward on ways to select supporters democratically and emphasis placed on including diverse groups.

A shared view was that supporters and Directors of Boards should be treated the same in terms of training provision and upskilling for their respective governance roles.

5. Options for Legislation: Supporters' Right to Bid for their Football Club

Background

The Scottish Government views the right to influence and the right to govern, as providing safeguards throughout the ongoing decision-making of a football club. Another option, which they perceive as providing the ultimate safeguard when a club is sold, is to give supporters the right to bid for the club.

A right to bid could ensure that football supporters are firstly treated as a priority and given the full opportunity to bid for their football club should the owner(s) decide to sell.

Question 3: What are your views on making a law to give supporters the right to bid for their club?

571 respondents addressed this question, including all of the organisations and 546 individuals. A further 15 individuals referred to their previous answer.

Establishing a clear picture of views was difficult on account of different respondent interpretations over whether the question referred to preferential rights to bid or the opportunity to bid along with any other potential purchaser. For example, whilst some respondents appeared not to support the proposal, it is not clear whether or not they did not support priority treatment of supporters or were opposed to supporters bidding for their club under whatever circumstances.

Responses indicated widespread support for the principle of right to bid but support was lower for enshrining this in law, especially amongst organisations who largely opposed this. Football clubs in particular highlighted potential drawbacks of going down the route of supporters bidding for their clubs.

Reasons in favour of giving supporters the opportunity to bid for their club

Comments in support of supporters' opportunity to bid for their club revolved largely around their **earning this right** due to long-term commitment to the club and having the **club's best interests at heart**. Once again supporters were termed the "lifeblood" of their clubs with their passion viewed as an advantage in terms of commitment to rescuing failing clubs.

Enabling supporters to bid for their clubs was viewed as essential to ensuring the **long-term sustainability of clubs, safeguarding against asset-stripping**, and improving supporters' chances to take ownership of their club.

Qualifying views

Whilst many respondents supported the concept of supporters bidding for their clubs, some qualified their support. Three key qualifications emerged repeatedly:

- Prior to bidding, supporters should have finances secured for the purchase and for longer term sustainability of their club.
- Supporters should have access to professional help with their bid.
- Supporters will require to have business expertise and acumen to be effective in participating in the bidding process.

A few respondents were in favour of supporters having the opportunity to bid for their club under certain circumstances, for example:

- Only if the club is failing, for example, in financial difficulties.
- So long as stringent financial controls are put in place

“More detailed consultation on mechanisms and safeguards will be required. We recognise the need to preserve the financial and trading stability of a club in the midst of bidding and acquisition processes” (Scottish Football Supporters’ Association).

- So long as controls are in place to ensure there are not rogue takeovers and those bidding are legitimate supporters.
- So long as a fair value is established and another possible sale is not held up whilst supporters develop their bid.
- As long as supporters are not favoured over a bidder who could sustain the club financially better in the longer term:

“If a club was to be put up for sale then everyone should have the option to bid, however the final decision must be based on the economic and social benefits for the club” (Perth and Kinross Council).

- The owner must want to sell the club to supporters and not be forced to do this.
- Supporters must be made fully aware of their responsibilities and the legal and practical issues associated with buying a club.
- The club’s identity within the community should be preserved and the club should remain firmly part of the local community.

Other challenges were identified as: establishing a fair evaluation; the amount of time and effort required to lead a bid; complying with legal issues which arise;

resolving tensions between different groups of supporters with different views; and handling raised supporter expectations in a process in which they may be outbid.

Reasons given in opposition to making a law to give supporters the right to bid for their club

By far the most dominant argument against making a law to give supporters the right to bid for their club was that **existing legislation already provides for this**. For example, respondents (including three football clubs) were unclear what further legislation would add to current company law, under which shareholders could increase their shareholding until they can bid for outright control of their club.

“Any person or group of persons who can put together the funding needed to make a reasonable proposal can seek to engage in negotiations for the purchase of a club or its assets in line with the well-developed framework in the UK for the buying and selling of shares or assets. In practice, a right to bid, therefore, already exists” (Celtic plc)

“I’m not sure what this offers over and above existing rights” (Individual).

Another prevailing view was that such legislation would **interfere with current business law and would risk legal challenges**.

“...risks distorting the market” (Dunfermline Athletic Football Club Limited).

One further significant argument against the introduction of legislation was that this would most **likely be ineffective** due to:

- owners still having the power to say no to any bid
- little demand to use the law/few supporters are in the position to use it
- too many laws already/overkill.

Once again, a comment was that all football clubs are different in their legal structures and implicit in the proposal is that one size will fit all, which they felt was not the case. One individual envisaged the legislation resulting in, “a constant merry-go-round of changes” as groups of supporters used the legislation one after each other resulting in continuous bidding and takeovers.

A few respondents considered legislation to be premature and that we should learn lessons from elsewhere first, and focus on ensuring supporter groups are democratically established, prior to going down this formal route.

General views on the perceived drawbacks of supporters bidding for their club

Many respondents, whilst not referring specifically to the question of introducing a law, identified what they perceived to be drawbacks associated with supporters bidding for their club.

Most commonly, respondents commented that **supporters do not tend to have the financial backing** to bid for and then sustain a club financially. Some felt that this **may not always be the best option for clubs**, with supporter buy-out not of clear benefit to clubs that are already financially sound and running well.

A recurring theme was that even if supporters have no intention of bidding for their club, the mere existence of legislation to enable this could **deter potential investors**.

“...prospective club owners would be put off investing in the club in that they may be forced to sell at a low price under the right to bid, and that the asset value of the club may be reduced as a consequence” (West Lothian Council).

“FFC believes that if football club assets can be defined as community assets and be subject to mandatory acquisition by a third party, then directors and shareholders will stop investing in the club’s infrastructure” (Falkirk Football and Athletic Club Ltd).

The issue of clubs possibly being forced to sell below valuation, and questions over whether or not other potential bidders would be locked out of the bidding process for a period of time, were causes for concern amongst a few respondents who envisaged falling share prices and valuation during the bidding period.

Views on alternative approaches

Within the Localism Act 2011, community assets can be nominated by relevant groups with a connection to the community, for example a supporters’ trust, to be listed as an “Asset of Community Value”. If the nomination is accepted, local groups will be given the time to come up with a bid for the asset when it is sold.

Very few respondents referred explicitly to the potential of this arrangement for supporters safeguarding their football club. Those who did provide substantive views were all in favour of using the 2011 Act in this way to protect assets.

“We believe that transparency on registered assets is important, support football stadia and facilities being recognised as assets of community value, and welcome the idea of the extension or adaptation of appropriate provisions of the 2011 Localism Act to Scotland, in accordance with parliamentary and democratic procedures” (Scottish Football Supporters’ Association).

“I do like the concept of registering assets as a community asset as it would prevent any one person benefitting (or at least make it more difficult for them) to the detriment of the community and the football club” (Individual).

A few respondents questioned whether this approach would add value, with one querying whether this law applies in Scotland.

Another approach proposed in the consultation to safeguard football club assets was placing a duty on the Board of Directors of football clubs to fully consult with

supporters of the club in the event of a sale (or transfer) of the football club. This was seen as ensuring that fans have access to necessary information to help them to make an informed judgment on any bid. Very few respondents referred to this proposal explicitly, but those that did were all in favour.

Summary of key points

The majority view amongst individuals and organisations was for supporters having the right to bid for their club. However, there was less support, particularly amongst organisations, for enshrining this in law.

Reasons in favour of supporters having the right to bid for their club revolved largely around their deserving this due to their long-term commitment to the club and having the club's best interests at heart.

In order to bid for their club effectively, respondents recommended that supporters should be required to have finances in place for the purchase and longer-term sustainability; should have access to professional help with their bid; and will require to have the necessary business expertise to participate.

The dominant argument against making a law to give supporters the right to bid for their club was that existing legislation already provides for this. Other common views were that supporters are not likely to be able to secure sufficient funding to bid for and sustain a club; and that bidding for their club may not always be the best option for clubs that are already financially sound and operating well.

Very few respondents addressed the possibility of using the Localism Act 2011 to safeguard their football club, with those who did, generally in favour.

6. Options for Legislation: Supporters' Right to Buy their Football Club

Background

During the passage of the Community Empowerment (Scotland) Act there was debate around a right to buy option for supporters' trusts to buy their football club for an agreed price or an independent valuation.

During the development of the Act, some supporters' groups indicated their view that a right to buy is an important safeguard to protect the interest of football supporters.

The Scottish Government acknowledges that the right to buy option brings with it challenges in relation to defining what a football club is, and also which supporter group has greater legitimacy to the right. In addition, a number of community owned football clubs have raised concern over a right to buy model, highlighting potential risks and consequences.

Question 4: What are your views on making a law to give supporters the right to buy their club?

This question attracted the most volume of responses, with 848 respondents addressing it, including 22 organisations and 826 individuals. This reflects the prompting of the Green Party via its Fans First campaign in support of legislating for supporters to have a right to buy their clubs.

Whilst a clear majority of individual respondents favoured making a law to give supporters the right to buy their club, views were mixed amongst organisations. Football clubs dominated those organisations opposing making a law to give supporters the right to buy their club.

It should be noted that amongst those opposing the proposal were respondents who were supportive of the right to buy, but were against preferential treatment given to supporters in this process.

Reasons in favour of giving supporters the opportunity to buy their club

Very few respondents argued specifically for a law to give supporters the right to buy their club. The two arguments in favour of enshrining this opportunity in law were that this would be consistent with other community buy-outs and that, without making this law, it would not be possible to enforce the right.

Many respondents highlighted more generally what they perceived to be the benefits of giving supporters the opportunity to buy their club. Seven main benefits emerged repeatedly:

1. It will safeguard football clubs from asset stripping and those intent on short-term business gain, and return clubs to longer term sustainability.
2. Supporters will do what is right for their club. They are the best long-term stewards; will take the game back to the terraces; safe hands.
3. It will strengthen the local community; engender community spirit; link clubs with communities.
4. Supporters deserve to be at the helm of their club as they contribute passion and commitment and should have more of a say than owners with little connection to the club and who are out of touch with the local community.
5. It will create transparency by empowering supporters and including them in decision-making.
6. It could protect the club from the ups and downs created by different ownership and speculation over developments; supporter ownership could provide consistency and stability.
7. This is what works in other countries. Germany was mentioned most frequently in this regard.

Other reasons given in support of the proposal were:

- Will greatly improve the game's governance.
- Keeps the owners on their toes.
- Scottish football needs innovation and a right to buy is a way of achieving this and energising clubs.
- Could create the opportunity for supporters to purchase an ongoing concern rather than a club getting into a fire-fighting scenario when it finds itself in financial difficulty.

A few respondents proposed that supporters be given the right to buy a percentage of the club with 30% being suggested by one respondent; some referred to the Foundation of Hearts model as a preferred approach; reference was made to learning from successful models of supporter right to buy in other countries; a few respondents favoured what they termed a "preferred bidder status" for supporters.

Qualifying comments

Some respondents qualified their general support for the proposal, the most common qualifications were:

- Any bid should have sound financial backing.
- Appropriate financial safeguards should be in place, with the bid subject to external scrutiny by an independent financial authority.
- Supporters exercising this right should have the necessary expertise and business acumen to carry it through.
- The right to buy should be an option of last resort, only to be implemented in extreme circumstances when a club is under stress.
- The owner should have the right not to accept the bid.

Reasons given in opposition to making a law to give supporters the right to buy their club

Many respondents argued against enshrining the right to buy in legislation.

Most commonly, respondents argued that there is no need for a new law as many **supporters already have the opportunity to buy their club** under existing company law, and many questioned how the new law would fit with company law. It was felt that preferential treatment given to football club supporters would be out-of-step with business protocol and legislation.

“If a football club is a company limited by shares, there is an opportunity to buy the club right there” (Individual).

“I think European legal and company law would dictate this rather than the Community Empowerment (Scotland) Act deciding this” (Individual).

In keeping with responses to earlier questions, common arguments were: that **what is best for one club may not be the best option for another** and this should be about individual clubs rather than blanket legislation; **and Scottish Government should not involve itself in football** with this proposal being seen as a step too far.

Finally, some argued that **forcing a club to sell against its wishes is unfair**, particularly if the current owner has invested much into the club.

General views on the perceived drawbacks of supporters buying their club

Many respondents argued generally against the principle and practicalities of supporters buying their club.

Some respondents expressed concern that the proposal **could be open to abuse**, with unscrupulous people, posing as bone fide supporters, taking over clubs. Others commented that all supporters may not have the best interests of their clubs at heart, and friction could develop between different supporters within the buy-out group.

“Supporters are not saints; they are just as susceptible to factionalism as any other governing body and just as subject to self-seeking motivation rather than motivation in the interests of the club as a whole, including the interests of the fans. A strong dose of reality is needed to avoid clubs falling into the hands of the unscrupulous” (Individual).

Another recurring view was that giving supporters the right to buy their club would create uncertainty for potential financial backers, presenting a threat to would-be investors and generally be a **deterrent to future investment**. Some respondents predicted a stagnation of investment due to the uncertainty.

“There is also a possibility that the right to buy would be a disincentive to buying and investing in a club for non-fans groups, which would clearly be detrimental to the game overall” (West Lothian Council).

“...this may dissuade private investment in clubs and non-supporter interest in purchasing clubs” (Stirling Council).

Others forecast share values dropping, for example:

“A right to buy would also cut across the principle of unfettered ownership of shares in the UK. This in turn would be a serious impediment to the sale or marketability of any such shares and would likely have a significant negative impact on the value of the underlying shares, affecting both the value held by existing shareholders (whom, in many cases, will be supporters of the club) and the underlying value of a club's assets” (Celtic plc).

A small number of respondents cautioned that, even if supporters manage to buy their club, over the longer term this may **not be commercially viable**. They doubted whether supporters could sustain the funding required to weather the bad times as well as the good and they questioned whether all the operating costs associated with running a football club would be taken into account at the bidding stage.

“FFC’s Sustainability Review looked at examples of supporter ownership and a common problem was the inability to raise significant funds to support current operations, invest for promotion or avoid relegation” (Falkirk Football and Athletic Club Ltd).

One further substantive argument against supporters buying their club was that **supporters may not have the organisational skills** to buy their clubs and run them successfully. Such doubts were expressed in relation to larger clubs in particular:

“I have no desire to have my club run by a bunch of amateurs” (Individual).

Summary of key points

The question of whether a law should be made to give supporters the right to buy their club attracted the highest level of response of all the consultation topics reflecting prompting by the Green Party via its Fans First campaign to support such legislation.

A clear majority of individual respondents favoured making a law to give supporters the right to buy their club; views of organisations were mixed.

The most common argument in favour of giving supporters the opportunity to buy their club was that this will safeguard football clubs from asset-stripping and those intent on short-term business gain. Another prevailing view was that supporters will do what is right for their club and will ensure secure stewardship into the future.

The most common argument against making a law to give supporters the right to buy their club was that they already have the opportunity to do this under existing company law. Preferential treatment given to football club supporters over other potential buyers was seen as out-of-step with business protocol.

A common concern was the proposal to give supporters the right to buy their club could be open to abuse with unscrupulous people potentially purchasing the club posing as bone fide supporters. Other prevalent concerns were over: friction between different groups of supporters; deterring future investment; value of clubs dropping during the purchasing period; and longer-term viability of clubs purchased by supporters.

7. Views on Raising the Necessary Funds to Execute the Right to Buy and the Time Allowed for this

Background

The Scottish Government recognises that the “right to buy” or “right to bid” options would most likely need to provide a period of time to allow interested supporters’ groups to raise the necessary funds or put in place the governance arrangements.

During this time the market value of a club and/or its assets may be impacted and others would be locked out of bidding which could lead to risk of reduction in the value of the club and other negative financial implications.

The Working Group recommended the establishment of a Business, Community and Football Enterprise Unit to provide expert legal and financial support (including provision of bridging acquisition capital) to football club supporters and owners seeking to restructure a football club to one focused in form and substance on social and community impact, and/or to provide advice and financial support to clubs, however structured, which seek to align their social and community activities with national policy initiatives.

Question 5: What are your views on raising the necessary funds, including the amount of time allowed for supporters to do so, to give supporters a right to buy their football club?

520 respondents addressed this question including 20 of the organisations and 500 individuals.

Amongst the respondents to this question, the vast majority were in favour, so long as a clear time limit is set so as to minimise uncertainty and prevent the process drawing out indefinitely.

Views on allowing time for supporters to raise funds

Many specified that in addition to current fund-raising, supporters should be required to have in place a well structured plan for sustaining funds over the longer term, similar to a business plan.

“Like any other business they should provide a business plan detailing the next 3 or so years for the club to show where this investment would come from and how it would be put to use” (Stewarton Academy Young Ambassadors).

An overarching theme was that consideration should not focus solely on raising the initial funds to bid for and purchase a club, but equal emphasis should be placed on sustaining funding and establishing necessary financial governance and expertise into the future.

“This comes down to people; if you have the right people with expertise and knowledge of funding or monies that are available and how to raise such an amount of money. If there is no expertise they should not entertain the notion of buying their club” (Cumnock Academy).

General concerns were expressed over protecting supporters from exploitation by lenders and ensuring tight controls are in place to prevent further financial crises.

A view shared by many individuals was that the period allowed for raising funds should be agreed on a **case-by-case basis** with factors such as size of club, value of assets and time of year all to be considered when setting the time limit. An alternative view was to set timescales perceived to be a reasonable balance to enable supporters to put their bid/funds together, whilst protecting the value of the club as far as possible. Most suggested timescales of up to one year, although durations of up to 5 years were also put forward.

A minority of respondents argued against allowing supporters time to raise funds to buy their club. The main argument was that **supporters should not have any privileges or special status** over other bidders. In a free market, where any party can bid for a club, a supporter-led bid should have the same terms as any other. Bidders who already have sufficient funds should not be held up in the bidding process whilst waiting for supporters to find adequate funds and bid against them.

“If an owner wants to sell his property to the man on the right who’s got the cash in hand, the sale shouldn’t be held up for the posse on the left to match him” (Individual).

Another recurring concern was that if supporters are given time to raise funds, **the market value of clubs is likely to diminish** during this period.

“We consider that any “bid period” during which supporters have a right to bid or buy to the exclusion of other third parties would negatively affect the market value of the relevant club’s underlying shares and assets and the club’s ability to secure future investment – the longer the “bid period”, the greater the risk to the club” (Celtic plc).

A small number of respondents considered the **entire issue futile** as they perceived the concept of supporters finding monies to buy a club a “pipe dream” and irrelevant, particularly in the case of larger clubs.

It was also argued that any club in severe financial difficulty would **require a fast solution** rather than one which allowed supporters time to develop a bid and

source funds. They emphasised that creditors would be pushing for immediate payment from any club in this situation.

Views on Scottish Ministers involvement in raising funds

One suggestion put forward during the passage of the Community Empowerment (Scotland) Act 2015 was that Scottish Ministers should provide funding to supporters' groups to allow them to make an offer to buy a football club, or provide loans and/or underwrite a purchase. However, the Working Group on Supporter Involvement in Football Clubs was of the view that it was not the role of Scottish Government to provide such support.

Of the substantial number of respondents who addressed the topic, a clear majority opposed the involvement of the Scottish Government in providing funding or loans to supporters' groups to allow them to bid for their football club. The main arguments against this were:

- This is not the role of the Government.
- It would amount to state aid which would have to be funded by the taxpayer and is not an appropriate use of public funds.
- The Government has more important things to do.
- This could be viewed as the Government favouring one club over another or favouring one sport over another.
- It would be just a short-term solution which would not address the issue of longer term financial support.

Amongst the minority of respondents who favoured the involvement of the Scottish Government in this role, a prevalent perception was that this amounted to investment in social and community capital and empowerment, which was seen as very much part of the Government's remit.

One individual commented that this should be no different from the Government's continued support of the arts and other sporting activities. Others envisaged the Government acting as a guarantor of funds and being involved on a short-term basis only.

Views on the proposed Business, Community and Football Enterprise Unit

There was much support from across several different respondent types for the Working Group proposal for a Business, Community and Football Enterprise Unit.

The proposed unit was envisaged as having a range of roles including: providing advice; providing training for supporters; mediating between owners and supporters; providing a safeguard against rogue bidders with ulterior motives; and enabling/overseeing efficient sourcing of funds.

Some emphasised that the Unit should be sufficiently resourced, supported and accountable. Others cautioned that care should be taken to ensure it did not provide simply another bureaucratic hurdle standing in the way of supporters purchasing their club.

Amongst the small minority of respondents opposing the proposed Unit, the Celtic Supporters' Trust argued:

“We have many reservations...e.g. if this was funded by Government then it may seek to impose political policies on clubs which may well be inappropriate and unacceptable.”

Other concerns were:

- Not needed as other bodies exist to provide such help.
- The Unit may be without work during some periods and very busy at others – perhaps the role could be subsumed within another body's remit.
- It would need continued resourcing.

Views on widening the criteria and role of social investment institutions

The Working Group also proposed that the investment criteria and role of social investment institutions be widened to allow them to act as vehicles which could support football supporter collectives.

This proposal received general support from the small number of respondents who addressed it specifically.

Several respondents alluded to the need for some form of community investment fund or trust, with independent and impartial advice available, and funds available for community initiatives such as buying a local football club.

A few respondents recommended additional assistance in the form of tax relief for local organisations raising money to contribute to the purchase.

A recurring theme was that, rather than borrowing funds to bid for a club, supporters need to have raised the money from within their supporter base, thereby demonstrating their ability to raise and manage their own funds. This was also perceived as showing capacity to raise further funds over time, rather than simply raising initial monies which then run out leaving a club financially unstable further down the line. The “Heart of Midlothian model” was mentioned repeatedly as being effective in enabling supporters to buy their club from the owner in an incremental manner, over time, according to an agreed schedule of payments. However, a few respondents cautioned that such a model relied on a benefactor with available capital underwriting the process.

Summary of key points

Most of those who addressed this issue were in favour of allowing time for supporters to raise the necessary funds to buy their football club so long as a clear time limit is set to prevent the process drawing out indefinitely. A common view was that supporters should also be required to develop a well structured plan for sustaining funds over the longer term.

Whilst some respondents considered that the period permitted for raising funds should be decided on a case-by-case basis, there were others who argued for a set timescale, with up to one year most often suggested.

A clear majority of those who addressed the topic disagreed with the involvement of the Scottish Government in providing funding or loans to supporter groups to allow them to bid for their football club.

Much support was expressed for a suitably resourced and accountable Business, Community and Football Enterprise Unit which was envisaged as: providing advice; providing training for supporters; mediating between owners and supporters; providing a safeguard against rogue bidders with ulterior motives; and enabling/overseeing efficient sourcing of funds.

The proposal to widen the criteria and role of social investment institutions to allow them to act as vehicles which could support football supporter collectives was generally favoured by the few respondents who addressed it.

8. Views on Defining Assets, in the Context of Making a Law to give Supporters Rights in the Decision-Making or Ownership of their Football Club

Background

Whilst the majority of clubs within the SPFL are companies limited by guarantee, the structure is complex and it cannot be assumed one entity owns all the assets.

Each football club will be constituted in such a way as to meet their own needs, but the administration process of a number of football clubs has highlighted the often complex inter-relationship of these with many being undertaken by separate companies established in their own right.

Defining what is a football club in relation to the specific assets and liabilities is sometimes challenging, yet clearly important if a single business entity is to be sold.

Question 6: What are your views on defining assets, in the context of making a law to give supporters rights in the decision-making or ownership of their football club?

466 respondents addressed this question including 20 of the organisations and 446 individuals. There was general agreement over the importance of defining assets clearly in the context of supporters becoming involved in influencing, governing, bidding for and buying their clubs.

Views on ensuring assets are defined

A recurring view was that clarity over assets would promote transparency in ownership which was essential in the context of involving supporters in decisions over their club.

“...would assist parties in any sale in understanding the value of relevant assets” (Stirling Council).

“If supporters are going to invest finances it’s only right they are fully aware of the whole investment” (Individual).

However, it was recognised that such clarity can prove difficult to establish and many challenges to defining assets were identified by respondents:

- The great variety of corporate structures and asset ownership models existing, making a “one size fits all” approach impossible.
- Constantly changing models of asset ownership.
- Creation of arms-length independent companies.
- Part-ownership/asset leasing arrangements.
- The social and cultural dimension of football clubs which sets them apart from traditional businesses.
- Assets of value to the club may not be tradeable – “what some clubs may determine to be an asset might be ignored by others” (Individual).

One shared understanding emerging from many of the individual responses was that assets are defined as routine in standard business accounting reports, with asset registers freely available and this should be the case with football clubs. Some respondents remarked that they did not fully understand the question, as defining assets is simply part of usual business practice.

For those holding this view, a key issue was to ensure clubs disclose their assets and the ownership arrangements for these. Legislation to this effect was called for by a few, with shareholders listed along with reasons for another party owning a particular asset. One individual respondent requested that all football clubs provide the SPFL and Scottish FA with details of their assets and liabilities and the ownership of these as a requirement of registration. A local government respondent recommended that details of assets be published on a club’s website.

“There should be an obligation on clubs to declare who owns what and that this should be a matter of public record” (The Celtic Supporters’ Trust).

Other respondents, in recognition of the challenges they foresaw in defining assets, considered that further assistance on this matter would be beneficial. Options identified included:

- Establish an expert working group to provide guidelines and explore the need for legislative underpinning.
- Look elsewhere where there are already models of fan ownership, to see how assets have been defined.
- Football authorities to agree who owns what.
- Conduct independent evaluations of football clubs to ascertain a clear picture.

- Seek legal input and/or independent people to assist with defining assets.

Perceptions of what constitutes “assets”

Many respondents attempted to clarify what they perceived to be football club “assets” irrespective of who owns them:

- stadium/training ground and associated buildings/estate
- players
- branding/badge/strip
- merchandise/marketing deals/sponsorship packages
- staff
- identity
- history/achievements/trophies
- club name
- equipment
- shop/retail outlets
- social club/membership
- membership of league
- car parks
- intellectual property/non-tangible assets
- manager
- separate operating organisations such as academies
- office
- hotels
- cash in the bank

A few respondents also highlighted that liabilities and outstanding loans should be taken into account when considering assets in the context of supporters being involved in decision-making and ownership of their club.

Although such attempts were made by many respondents to define the scope of assets, the issue of value of assets was perceived as challenging, with some respondents questioning whether these held a consistent value, or the extent to

which value was affected by circumstance. For example, was a match/training stadium of the same value if a football club no longer played there?

Other questions to emerge included whether assets defined as such by a club were actually tradeable and capable of sale. Whereas some respondents focused on tangible assets in the context of this question, others emphasised that assets should be defined in an intellectual sense rather than simply a physical sense, for example, the name of the club and its social impact were amongst assets perceived to fall into the “intellectual” category.

Conceptual frameworks on clubs and assets

Views amongst many individual respondents were divided conceptually on whether clubs and their assets are one and the same, or whether clubs are separate entities in themselves and are distinct from companies and tangible assets. Some respondents appeared to have views which fell between the two camps.

At one end of the spectrum were those sharing the view that, with few exceptions, the club is the company and the company holds the assets relating to the club. Under this model the club and assets are joined and cannot be separated; assets cannot be split and sold off individually; the club always retains ownership of its name, history, trophies, human and physical resources; the football club is indistinguishable from the company that owns it.

At the opposing end of the conceptual spectrum were those who perceived assets and companies as potentially separate from football clubs.

“The assets being entwined with the football club/playing side has beleaguered almost every club that has had this problem. Infrastructure, stadia, training grounds and other properties should be totally separate to the club....”

Some respondents specified that, whilst fixed assets required to be defined as they are tradeable and separable from the club, there is no need to attempt definition of what was perceived as cultural property such as a club’s motto and badge which are owned by the club.

Overall, views were very mixed and sometimes confused on the issue of how to define assets in the context of making a law to give supporters rights in the decision-making or ownership of their club.

Views on holding companies

A few individual respondents took the opportunity to provide their arguments against holding companies in the context of football club ownership.

These generally were along similar lines that holding companies muddy the picture on who owns what and that they provide the opportunity for hiding and masking clear lines of ownership.

Calls were made for much clearer and transparent distinctions between what constitutes a club and what separates them from their respective holding company.

A very small number of respondents appeared to support specifically the separation of assets into a stand alone entity, keeping these distinct from the operation of clubs with the financial risks attached to this.

Summary of key points

There was general agreement over the importance of defining assets clearly in the context of supporters becoming involved in influencing, governing, bidding for and buying their clubs. However, many respondents also considered such clarity difficult to establish due largely to the extensive variety of corporate structures and asset ownership models across football clubs.

Many of the individual respondents shared a view that assets should be defined as routine in standard business accounting reports and that these will be freely available. Others recommended seeking expert advice on how to define assets.

Where respondents indicated what they perceived as football club assets, most commonly identified were: stadia and training grounds; players; branding; merchandise/sponsorship packages; and staff.

A recurring view was that even if the scope of assets can be defined, their value may not be readily identified due to fluctuations according to circumstance.

Views were divided between those perceiving clubs and their assets to be inseparable; and those who envisaged clubs to be separate entities, distinct from tangible assets and companies.

A few respondents called for greater clarity over the relationship between clubs and their holding companies.

9. Views on Defining Supporters and Supporter Groups, in the Context of Making a Law to give Supporters Rights in the Decision-Making or Ownership of their Football Club

Background

There is much debate about how to define a football supporter. The Scottish Government acknowledges that at one end of the spectrum a football supporter could be perceived to be someone who has an interest in a club and keeps an eye on the results, or at the other end, a season ticket holder or those who are financial investors in a club. The Scottish Government also recognises that, given the wide range of supporters' groups, it could be a challenge to know which one has the greatest legitimacy in the context of rights.

Question 7: What are your views on how to define what is a football supporter and defining supporter groups, in the context of making a law to give supporters rights in the decision-making or ownership of their football club?

530 respondents addressed this question, including 22 organisations and 508 individuals.

A widely held view was that attempting definition of supporter and supporter groups was very challenging given the wide range of involvement exhibited by supporters, from armchair followers to Boardroom representatives. It was pointed out that some supporters follow several different teams at the same or different times, sometimes changing allegiance over time. Even within a football club's group of season ticket holders, different supporters may have different types of season ticket, demonstrating the difficulties in using criteria such as season ticket holder as a basis for definition.

Views on defining a football supporter

Despite such challenges, many respondents identified key attributes they associated with being a "football supporter":

- Season ticket holder.
- General contributor to the club's finances (e.g. from shareholder to someone purchasing merchandise).
- Someone who attends games when they can (may not be regular attender, but more than armchair supporter).
- Someone who self-defines themselves as a supporter and has an emotional attachment to their club. They may not attend matches, but they continue to support their team through thick and thin.

“The individual's financial situation at any one time may mean he/she is not able to contribute, but this in no way may lessen his/her adherence to the club. Often too that loyalty extends to whole families or communities.

So in our view supporters should be self-defining. If an individual defines him/herself as a supporter then he/she should not be denied that right” (The Celtic Supporters Trust).

Attributes of a football supporter mentioned less frequently were:

- Member of supporter group or trust.
- Shareholder.
- Someone who volunteers their time in some way for the club.
- Someone on the club's membership database.
- Financial investors.
- Someone who pays regularly into a funding vehicle such as Community Interest Company.
- Someone who contributes generally to the club.
- Someone who engages generally with the club.

The possibility of **prioritising one supporter over another on the grounds of regular attendance at matches was opposed** by many respondents, some of whom viewed the issue clearly in equality terms.

“If you define how much of a supporter a person is by how much financial support he/she gives the club then by definition, poorer fans are lesser supporters. Disabled fans are lesser supporters. Unemployed fans are lesser supporters. Fans who have moved away from the area or even the country for work or family are lesser supporters. I think most people would not accept this definition. At the heart of any football supporter is a love of their club. It is a bond that lasts a life time...”

One theme to emerge across several responses was that of **developing a hierarchy of supporter priority** (in the context of making a law to give supporters rights), possibly by awarding points according to set criteria, or a sliding scale of supporter priority, based, for example, on number of matches attended or length of time a season ticket has been held.

“...a supporter of a club should be allocated by a points system, where you accrue points up to a maximum allocation dependent on attending games, purchase of merchandise and attendance at public meetings related to the club and its existence” (Individual).

A few respondents argued that the definitions of supporter and supporter groups were generally known and did not require more explicit definition.

Emerging from a few of the responses to the overall question of defining a football supporter was a distinction between what some perceived to be a “supporter” and, therefore, more deserving of involvement in decision-making at their football club, and a less deserving “fan”.

In general, supporters were viewed as more connected to their club, financially, emotionally and physically (in terms of attending matches). Fans were perceived as admirers from afar, possibly living far away and watching matches on television rather than at the ground.

A few exceptions existed, with the concept of supporter and fan perceived as the other way around, a supporter being the more passive party, but overall, respondents perceived a hierarchy of support with football club “supporters” above football club “fans”.

Views on who should not necessarily be given priority as a supporter

A minority of respondents were explicit on who they considered should definitely not be given priority over others within the context of giving supporters rights in the decision-making or ownership of their football club. It is noteworthy that these views conflict with others and with each other, with no clear shared view emerging, reflecting the difficulties respondents encountered in identifying an appropriate definition of supporter in this context.

- Not armchair supporters who follow their team but do not contribute financially in any way.
- Not necessarily season ticket holders/regular attendees.
- Not someone who attends matches only occasionally.
- Not financial investors who are involved with clubs only for a return on their investment.
- Not individual supporters. Rights can go only to supporter groups.

- Not necessarily supporter groups. Could be individual supporters.

Views on defining supporter groups

Far fewer respondents attempted to define supporter groups than provided a definition for supporter. However, amongst the minority of respondents who addressed the issue, a range of attributes emerged.

- Properly constituted group registered with the Scottish FA or SPFL.
- A collection of like-minded supporters who contribute generally to their club.
- Supporters' Trusts (e.g. "When defining supporters groups the only real body who has any legitimacy are Supporters' Trusts. They are the only democratic and accountable organisations that represent supporters that have a legal standing" (Individual)).
- Groups of supporters who buy shares.
- Body which provides a voice for individual supporters and communicates on their behalf.

Once again, notions of **hierarchy** emerged, with a few respondents urging that no one group should have priority over another (for example, some groups may be smaller than others due to remote geography), but others suggesting hierarchical frameworks based on criteria such as number of matches attended, number of season ticket holders within the group, groups which are seen to contribute more to the running of their club, and so on.

Notions of **legitimacy** also emerged from responses, in particular how to ensure that those joining supporter groups are legitimate supporters of the football club. Suggestions were made to reduce the risk of "rogue supporters" infiltrating supporter groups, including permitting membership of only one supporter group at a time; paying a monthly fee to the supporter group; signing a contract confirming allegiance to the club; and requiring two or three referrals from other members before being accepted into the group.

Summary of key points

The challenges of defining football supporter and supporter groups were widely recognised. Amongst those respondents who attempted definitions of a football supporter the most frequently mentioned descriptions were: season ticket holder; someone who contributes generally to the club's finances; someone who attends matches when possible; and a person who self-defines as a football supporter and has an emotional attachment to a club.

It was generally acknowledged that some supporters cannot afford to attend matches or are not able to attend in person due to distance from their club or

disability. Respondents emphasised that such supporters should not be excluded from decision-making at their club on account of this.

There were mixed and sometimes contrasting views on which supporters should have priority over others in the context of rights in the decision-making or ownership of football clubs.

Amongst the minority of respondents who attempted a definition of supporter groups, the most common views were: properly constituted group registered with the Scottish FA or SPFL; and a collection of like-minded supporters who contribute generally to their club.

10. Views on Rights of Appeal

Background

The Scottish Government considers that to protect the rights of both trusts and owner(s)/operator(s) of a football club, it might be argued that it is important to put in place an appeals process in the context of making a law to give supporters rights in the decision-making or ownership of their football club.

Question 8: What are your views on rights of appeal, in the context of making a law to give supporters rights in the decision-making or ownership of their football club?

394 respondents provided a relevant response to this question, including 20 organisations and 374 individuals.

Overall, most were in favour of establishing rights of appeal in this context, particularly a large majority of individual respondents. A few respondents suggested that their support depended on who appeals could be made to and the criteria for appealing. A small minority stated they did not agree with legislation in this context.

Views in favour of establishing rights of appeal

The main reason in favour of rights of appeal was that these are routine aspects of justice, part of balance and checking procedures and good practice where legislation such as this is enacted.

“If these proposals do proceed to law, then it would be prudent, if not an obligation, to include right of appeal processes” (East Ayrshire Council).

Another prominent rationale was that establishing rights of appeal would be democratic and fair to both sides, a formal route to dispute resolution.

Other less prominent supporting reasons were: that an appeals process would help to safeguard clubs against unscrupulous deals; would provide a platform for the voices of supporters to be heard; would ensure transparency in dealings; would contribute to more balanced decision-making; and would provide an opportunity for challenging decisions perceived as not in the best interests of the club.

A strong theme to emerge from individuals and organisations was that, should an appeals process be introduced, it should have clear parameters to reduce risk of spurious appeals, to keep it in proportion and to prevent lengthy, complex procedures arising which could delay important decisions being made with potential to affect market value of the club.

“This would appear to reflect good practice but the process would require to be robust and quick enough so as to avoid drawn out decision-making and high cost to parties involved” (Stirling Council).

“...any "appeal period" in which either (a) third parties are locked out from bidding and/or finalising any deals to invest in a club or purchase its shares or assets or (b) any specific decision of the club's board of directors is under review, would cut across existing duties of directors, would negatively affect the market value of the relevant club's underlying shares and assets and the club's ability to secure investment” (Celtic plc).

In addition, concern was expressed over the funding of appeals, questioning who would pay for them. One individual respondent recommended that the SPFL or Scottish FA foot the bill. Other concerns were raised, such as ensuring that appeals do not rely on the ability to fund a legal case which could disadvantage most supporter groups; and that a formal appeals process may add further legal and financial complications to clubs with cash-flow or administrative difficulties.

Views on who should be on the appeal board

A wide range of views emerged from a small number of responses on who the appeal should be made to. A prevailing view was that the appeal board should be independent from the parties concerned, with the process transparent.

Recommendations for membership of the board included:

- Judges
- Court of session
- English court
- A new body set up by the Scottish Government such as an Ombudsman for sporting issues
- Scottish Government
- Tribunal
- Governing body of football
- Shareholder representative
- Supporter representative
- Journalists
- MSPs

Views opposing the establishment of rights of appeal

A small minority of those who addressed this question clearly opposed the establishment of rights of appeal, largely on the grounds that if the legislation on supporters' rights is comprehensive, there will be no need for further processes such as appeal procedures. Some considered that existing mechanisms such as company law should suffice, with additional appeal processes a waste of money. A few stated that establishing rights of appeal is not an immediate priority and can be revisited at a future date.

Many other reasons to oppose the introduction of rights of appeal were highlighted:

- Overly bureaucratic and not workable, too expensive and messy.
- Doubts over effectiveness (e.g. "no doubt the SFA will act as judge, jury and executioner, and as always will act in its own interest before anything else.....having a right of appeal really is a futile exercise" (Individual)).
- There are other, less intrusive forms of resolving conflicts such as discussions between parties.
- Could end up extending the period of purchase to the detriment of the club.
- Doubts over whether owners would go along with a final appeal decision which they do not like.
- Could be exploited by owners who might use it repeatedly until they get their own way.
- Could be exploited by supporter groups (e.g. "...would any supporters' group which has been unsuccessful in securing rights of representation have the right of appeal? If so, there is a clear risk of there being a string of appeals from variously constituted supporters' groups" (Dunfermline Athletic Football Club Limited)).
- Disputing parties should simply go along with what the ruling bodies decide should happen.
- Could put potential investors off.
- Could create a barrier between the supporters and the club.

Summary of key points

Most respondents to this question, including a large majority of individuals, agreed with establishing rights of appeal in the context of making a law to give supporters rights in the decision-making or ownership of their football club.

The main reasons in support were that rights of appeal are routine aspects of justice, part of balance and checking procedures and good practice where legislation such as this is enacted. Other prominent views were that rights of appeal would be democratic and fair to different parties and would provide a formal route to dispute resolution.

A recurring view was that any appeals process should have clear parameters to reduce the risk of spurious appeals and delays in finalising decisions.

Recommendations were made for the appeal Board to be independent and to work in a transparent manner.

Amongst the small minority of opponents, the prevailing view was that existing mechanisms and legislation should suffice, with no additional need for appeal procedures. Concerns were raised that new appeals processes might be overly bureaucratic and expensive.

11. Any other comments?

Question 9 of the consultation invited respondents to make any further comments about supporter involvement in football.

366 respondents provided further commentary in response to this question, including 14 organisations and 352 individuals. Most of their comments re-iterated those made in relation to previous questions and are reported earlier. The main additional comments not covered elsewhere are summarised below.

Although there were calls for **greater will for change to come from the top**, the SPFL, Scottish FA and Minister for Sport being identified in this regard, it was also recommended by some that the **Scottish Government should not be involved** in such issues.

It was mentioned that **supporters sometimes do not receive the respect they deserve from the governing bodies of their sport and when they attend matches**. Many commented that as the lifeblood of their clubs they expect to be treated appropriately, but repeated complaints were made over issues such as the price of tickets for matches, challenging access arrangements, for example, for those with disabilities, and generally what was perceived to be a poor atmosphere at grounds with some concerns raised over police management of supporters at matches.

“I believe that it is important that government and related bodies (e.g. the police) reject any narrative framework which considers football fans as 'the enemy' or as a problem to be dealt with. Inherent suspicion towards and heavy-handed treatment of football fans must become a thing of the past. Obvious, prejudiced and unjustifiable inconsistencies in treatment towards football fans compared with other groups should also be brought to an end” (Individual).

“I've been watching the game for over 50 years, but have never felt as if I was of any value to my club” (Individual).

Many respondents focused their comments on **wider aspects of the running of football clubs**. Most prominent amongst these was the recommendation that football clubs should continue to work at **creating channels of communication** with their supporters in order to keep abreast of current views. In particular, respondents called for meaningful consultation between clubs and supporters, rather than tokenism.

“We feel that there should be at the very least a legal obligation on Clubs to consult with and heed the views of supporters at all times but certainly before taking and implementing any major policy decision. Our experience is that, although the officials of our club claim they consult supporters, it is often after decisions are made and it is not consultation but rather information sessions which take place” (The Celtic Supporters Trust).

A wide variety of other topics were raised which included:

- Whereas a few respondents praised governing body efforts to connect football at **grassroots level**, others considered that much more could be done on this front including encouraging new coaches and making use of currently unused local facilities.
- There were perceptions of the **Old Firm dominating** Scottish football to the detriment of football standards across the board. For example, “The game needs to be restructured to get the playing level even, for too long the game has been structured around 2 teams playing out of Glasgow” (Individual);
- **Sectarianism needs to be tackled.** “The one concern I have in Scotland is increasing sectarianism again. I have noticed at matches that sectarian songs can be clearly heard, not just by a small minority and until this is completely eradicated Scottish will not be able to move forward” (Individual); “We don't have a racism problem in Scotland, we do have a sectarian problem in Scotland and we do nothing about it” (Individual).
- **Social and other media** can present a very negative/unrepresentative picture of Scottish football which may influence wider opinion unduly.

Summary of key points

Under question 9 (Any further comments), respondents took the opportunity to raise a number of wider issues around football. A key topic area was that they should be given more respect from the governing bodies of football generally and when attending football matches. Comments were suggestive of some challenges in the relationship between governing bodies of football and football supporters with additional concern expressed over ticket prices and police management of supporters at matches.

A common recommendation was that football clubs should continue to work at creating meaningful channels of communication with their supporters.

Annex: List of Respondents⁵

Football Clubs and Representative Bodies

Celtic PLC
Dunfermline Athletic Football Club Limited
Falkirk Football and Athletic Club Limited
Mauchline United
Rangers Football Club
Scottish Professional Football League Limited
St Mirren Youth Football Club

Schools

Cumnock Academy
Grange Academy Sports Panel
Kilmarnock Academy
Loudoun Academy
Park School
Stewarton Academy Young Ambassadors

Supporter Groups

Elgin City Die Hards
Scottish Football Supporters' Association
Supporters Direct Scotland
The Celtic Supporters' Trust

Local Government

East Ayrshire Council
Perth and Kinross Council
Stirling Council
West Lothian Council

Other

Community Football Assets Limited
East Ayrshire Members of Scottish Youth Parliament
Scottish Co-operative Party
Scottish Urban Regeneration Forum

Individuals

957 individuals

⁵ Responses to the consultation , where permission was granted to publish, can be viewed online at <https://consult.scotland.gov.uk/active-scotland/supporter-involvement-in-scottish-football-clubs>



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